

EXHIBIT D-3

12:16:20 1 It.	12:19:00 1 some correlation, yes. But I think what you're
12:16:21 2 Q. And -- but you don't have any data on that	12:19:05 2 looking at is probably the bigger factor. If
12:16:23 3 point?	12:19:08 3 it's -- I'll call it a mundane sign that's really of
12:16:23 4 A. No.	12:19:12 4 not much interest to most people, they're not going
12:16:25 5 Q. Correct? No, you don't?	12:19:14 5 to be studying that sign very much.
12:16:26 6 A. No, I do not have data on that point.	12:19:16 6 But on the other hand, if it's something of
12:16:30 7 Q. And you're not aware of any?	12:19:20 7 high interest, you know, visually somehow, then
12:16:33 8 A. No.	12:19:24 8 you're going to spend more time and probably
12:16:41 9 Q. Do bus shelters help drivers know when a	12:19:24 9 increase the chances of an accident.
12:16:44 10 bus is going to stop?	12:19:25 10 Q. But -- and you don't know how long people
12:16:48 11 MR. MOBLEY: Objection. Calls for	12:19:26 11 tend to spend looking at signs?
12:16:50 12 speculation.	12:19:28 12 A. No.
12:16:50 13 THE WITNESS: I would -- I would say no.	12:19:33 13 Q. But it's generally considered more unsafe
12:16:55 14 If you're right behind a bus, you probably don't see	12:19:35 14 to drive while you're looking to the side of the
12:16:58 15 the bus shelter until the bus stops. If you're ten	12:19:37 15 road than looking straight ahead, correct?
12:17:01 16 cars back, I don't think it makes any difference.	12:19:40 16 MR. MOBLEY: Objection. Incomplete
12:17:04 17 So I'm not sure is it a benefit or -- of a	12:19:42 17 hypothetical.
12:17:07 18 bus shelter warning a driver, look, a bus is going	12:19:42 18 THE WITNESS: I think -- on a general --
12:17:10 19 to stop here? I'm not sure there's -- makes much	12:19:44 19 everything else being equal, sure.
12:17:12 20 difference.	12:19:44 20 BY MS. BRILL:
12:17:12 21 BY MS. BRILL:	12:20:06 21 Q. And you didn't analyze as to any Metro
12:17:13 22 Q. Are you not sure one way or another?	12:20:08 22 Lights sign whether it's necessary to turn your head
12:17:15 23 A. No, I'm not sure. Some cases it's	12:20:10 23 to see the sign at a point where it would be
12:17:17 24 obviously going to help some, but I would think most	12:20:16 24 legible, correct?
12:17:20 25 of the time it's -- you know, probably the blinker	12:20:16 25 A. The ones I saw in general could be -- I

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12:17:23 1 on the bus or something like that or the brake light	12:20:20 1 believe could be viewed or could be read in a -- in
12:17:25 2 and he's slowing down when traffic is moving is	12:20:24 2 a 15-degree cone. So from that point of view, they
12:17:27 3 probably a whole lot more of an indicator to a	12:20:28 3 could be viewed.
12:17:32 4 driver that the bus is going to stop than if there's	12:20:29 4 Now, you could also read them if you turned
12:17:34 5 a bus shelter sitting there.	12:20:31 5 your head, you know. The letters would be bigger.
12:17:36 6 Q. But it could help some drivers in some	12:20:34 6 The message would be bigger if you turned your head
12:17:38 7 situation?	12:20:38 7 Q. So did you -- turning back -- let's turn
12:17:38 8 MR. MOBLEY: Objection. Calls for	12:20:41 8 back to the Exhibit 14, your Metro Lights report.
12:17:42 9 speculation.	12:20:47 9 A. Okay.
12:17:42 10 THE WITNESS: I believe it would help	12:20:51 10 Q. And if you could turn to table 2.
12:17:44 11 sometimes.	12:20:54 11 A. Okay.
12:17:58 12 BY MS. BRILL:	12:20:58 12 Q. You say -- you have a conclusion section at
12:17:58 13 Q. Can you turn back to your Worldwide Rush	12:20:59 13 the bottom where you say:
12:18:01 14 report that we were looking at, Exhibit 9, to this	12:21:03 14 "For the average outdoor
12:18:11 15 one.	12:21:04 15 media sign it is within the
12:18:11 16 A. Sorry.	12:21:06 16 15-degrees of drivers'
12:18:22 17 Q. You refer at page 2 of that report, at this	12:21:09 17 straight-ahead line of sight at 140
12:18:32 18 point you've mentioned several times about the	12:21:11 18 or more feet back from the sign."
12:18:34 19 rubbernecking driver who looks off to the side of	12:21:17 19 Do you see that? Toward the middle.
12:18:37 20 the road as a factor causing accidents.	12:21:18 20 A. Okay.
12:18:37 21 A. Yes.	12:21:18 21 "The average outdoor media
12:18:48 22 Q. And do you agree that turning your head to	12:21:19 22 sign it is within 15 degrees of
12:18:51 23 the side of the road for extended periods correlates	12:21:21 23 drivers' straight-ahead line of
12:18:53 24 with traffic accidents?	12:21:22 24 sight at 140 or more feet back from
12:18:54 25 A. Well, it -- it's logical that it -- there's	12:21:25 25 the sign."

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<p>12:21:25 1 Yes, I do see that.</p> <p>12:21:27 2 Q. Did you determine -- did you determine whether</p> <p>12:21:30 3 the outdoor media signs that you were looking at</p> <p>12:21:32 4 were legible at 140 feet or more back from the sign?</p> <p>12:21:37 5 A. As I recall, they were. I -- I -- you</p> <p>12:21:41 6 know, what I can read, of course, may be different</p> <p>12:21:43 7 from someone else, but it appeared that way. I</p> <p>12:21:46 8 didn't do a scientific evaluation of how large the</p> <p>12:21:50 9 smallest letter was, and some of this stuff, because</p> <p>12:21:54 10 sometimes there's words or something that may not be</p> <p>12:21:56 11 really part of the message.</p> <p>12:21:57 12 So I did not attempt to determine if it was</p> <p>12:22:02 13 legible, you know, by all people at a certain point</p> <p>12:22:07 14 in time. I didn't do that, no.</p> <p>12:22:09 15 Q. What do you mean by "a scientific</p> <p>12:22:11 16 evaluation of how large the smallest letter was?"</p> <p>12:22:14 17 Is there -- is there some methodology that's</p> <p>12:22:16 18 standard practice in determining legibility of</p> <p>12:22:19 19 signs?</p> <p>12:22:20 20 A. There -- well, I'm not sure about the</p> <p>12:22:22 21 outdoor media industry, but as far as traffic signs,</p> <p>12:22:25 22 directional signs, yes. There's a -- the height of</p> <p>12:22:29 23 the letter is a function of how far back you want</p> <p>12:22:32 24 to -- to have the sign seen. So larger letters, of</p> <p>12:22:37 25 course, can be seen further back.</p>	<p>12:23:50 1 Q. And you didn't perform -- you didn't refer</p> <p>12:23:52 2 to that table or perform that analysis in preparing</p> <p>12:23:54 3 your 2004 report?</p> <p>12:23:57 4 A. No. And -- and you got to realize that the</p> <p>12:24:01 5 signs -- I mean, there's different styles of letters</p> <p>12:24:04 6 and there's different stroke weights, stroke widths,</p> <p>12:24:11 7 capitals versus smalls. All those things get into</p> <p>12:24:14 8 the equation.</p> <p>12:24:15 9 The -- the highway signs are for the</p> <p>12:24:16 10 typical highway lettering, you know, style, and it</p> <p>12:24:21 11 would change if you -- if you had a -- oh, a script</p> <p>12:24:24 12 letter or something like that, you know, something</p> <p>12:24:26 13 little harder to read. So it would change. And I</p> <p>12:24:29 14 don't think you can -- well, I didn't do it.</p> <p>12:24:32 15 Q. Did you make any records to show that</p> <p>12:24:35 16 you -- that each of the signs was -- was or was not</p> <p>12:24:40 17 legible at 140 feet?</p> <p>12:24:42 18 A. I -- I did not for -- I took the</p> <p>12:24:45 19 photographs with the idea that, you know, there it</p> <p>12:24:48 20 is documented, what I looked at. And in my view</p> <p>12:24:52 21 they could be seen pretty well at 140 feet.</p> <p>12:24:58 22 Q. Were the -- were the photographs taken at</p> <p>12:24:58 23 140 feet?</p> <p>12:25:00 24 A. No. Not exactly.</p> <p>12:25:00 25 Q. Closer?</p>
<p>98</p> <p>12:22:38 1 So a freeway sign, for instance, you know,</p> <p>12:22:41 2 a big sign that tells you where the next off-ramp</p> <p>12:22:44 3 is, those letters are pretty big compared to say a</p> <p>12:22:46 4 sign on -- just saying -- a rural road saying just</p> <p>12:22:50 5 turn this way to go -- turn to the right to go to,</p> <p>12:22:53 6 you know, city A, B, C. There's a difference in</p> <p>12:22:57 7 size, and clearly that's why there's a difference in</p> <p>12:22:59 8 size.</p> <p>12:22:59 9 So there is a standard.</p> <p>12:23:01 10 Q. And what -- what is that standard?</p> <p>12:23:03 11 A. You know, I don't recall exactly how it</p> <p>12:23:05 12 works. But it's -- it's -- inches is a -- feet --</p> <p>12:23:09 13 there -- there's a table or a concept where you look</p> <p>12:23:11 14 at how many feet back do you want the sign to be</p> <p>12:23:14 15 seen, which is a function of your 15-degree cone,</p> <p>12:23:17 16 and then how large the letters have to be.</p> <p>12:23:19 17 And there's a concept of speed. So you --</p> <p>12:23:23 18 you want to be able to have the driver see the sign</p> <p>12:23:28 19 early enough to -- to -- to -- to recognize, oh,</p> <p>12:23:32 20 that's where I want to turn or -- you know, so --</p> <p>12:23:35 21 there's -- it's a function of speed and -- speed and</p> <p>12:23:40 22 distance from the road.</p> <p>12:23:41 23 And -- but it's -- it's a simple table. It</p> <p>12:23:45 24 just says 60 miles per hour, X inches is how big the</p> <p>12:23:49 25 letters need to be, basically.</p>	<p>100</p> <p>12:25:01 1 A. They were just taken. No. They were -- I</p> <p>12:25:03 2 basically tried to get -- line them up and take</p> <p>12:25:06 3 them. I didn't pace off 140 feet and say, okay,</p> <p>12:25:09 4 here I am. I did not do that.</p> <p>12:25:11 5 Q. Do you recall approximately where you were</p> <p>12:25:12 6 in relation to when you took the pictures?</p> <p>12:25:14 7 A. No, I -- I -- no. I mean, I -- I could</p> <p>12:25:17 8 recreate the photos. It's pretty easy to walk out</p> <p>12:25:20 9 there and using parallel -- parallax, I guess they</p> <p>12:25:24 10 call it, which is where one -- one object is in</p> <p>12:25:27 11 relation to another, you can -- I can usually get</p> <p>12:25:29 12 within a five-foot circle where I took a photograph</p> <p>12:25:32 13 just by using parallax within the photo that you're</p> <p>12:25:37 14 looking at. So I could recreate them, but I haven't</p> <p>12:25:39 15 done it.</p> <p>12:25:40 16 MS. BRILL: We're about to run out of</p> <p>12:25:42 17 videotape. Let's go off the record.</p> <p>12:25:43 18 THE VIDEOGRAPHER: This marks the end of</p> <p>12:25:46 19 Videotape Number 1 in the deposition of William</p> <p>12:25:47 20 Kunzman. The time on the video monitor is 12:26.</p> <p>12:39:07 21 (At 12:26 p.m., the deposition</p> <p>22 of WILLIAM KUNZMAN was adjourned</p> <p>23 for noon recess.)</p> <p>24 ///</p> <p>25 ///</p>

<p>1 (At 1:29 p.m. the deposition 2 of WILLIAM KUNZMAN was reconvened.) 13:28:57 3 13:28:57 4 THE VIDEOGRAPHER: We're back for the 13:29:04 5 afternoon. This marks the beginning of videotape 13:29:07 6 number 2 in the deposition of William Kunzman. Time 13:29:11 7 on the video monitor is 1:29.</p> <p>13:29:11 8 13:29:11 9 EXAMINATION (CONTINUED) 13:29:11 10 BY MS. BRILL: 13:29:16 11 Q. Hi, sir. 13:29:17 12 Could you turn, please, to your 2007 report 13:29:22 13 that we were discussing, and turn to page 6. 13:29:28 14 You -- you refer there to -- you say: 13:29:32 15 "From a traffic engineering 13:29:33 16 and highway safety point of view, 13:29:36 17 signs can be classified by the 13:29:39 18 following characteristics." 13:29:40 19 And then you list, among others, relative 13:29:44 20 size in the driver's eye, location relative to 13:29:48 21 the -- to the roadway, and the complexity of the 13:29:50 22 message. 13:29:51 23 Do you see that? 13:29:51 24 A. Yes. 13:29:52 25 MR. MOBLEY: Actually there's a fourth</p>	<p>13:31:02 1 if somebody wants to see if the Dodgers won or 13:31:04 2 whatever, so I think maybe that would be -- the 13:31:07 3 predictability in that sense would be an issue. 13:31:22 4 Q. And what do you mean when you refer to the 13:31:24 5 complexity of a message in your list? 13:31:26 6 A. I'm thinking of -- I'll call it bits, bits 13:31:30 7 of information. 13:31:31 8 Some signs, let's say they have a phone 13:31:36 9 number and they have an address and they have a -- 13:31:38 10 you know, several bits of information, three or four 13:31:41 11 pictures, something like that, versus, say, a very 13:31:46 12 simple sign with just, say, one simple picture and, 13:31:49 13 say, a very simple message. That's what I'm 13:31:52 14 thinking of there. 13:31:54 15 Q. Okay. And what about confusing messages? 13:31:55 16 A. Well, yeah, I suppose if it's confusing it 13:32:00 17 wouldn't help, on the one hand. But on the other 13:32:02 18 hand, I'm -- I'm thinking that if it's confusing, 13:32:06 19 most people are going to, "I don't know what that 13:32:08 20 meant." Just not even worry about it. I don't 13:32:10 21 think anybody's going to spend much time trying to 13:32:13 22 decipher the hidden meaning or something. And most 13:32:16 23 signs are pretty well-written. Been tested. 13:32:19 24 Q. Is one of the functions of a small scale 13:32:23 25 sign on a business typically to identify the</p>
<p>102</p> <p>13:29:54 1 item. 13:29:54 2 MS. BRILL: Right. I'm going to get to 13:29:56 3 that. 13:29:56 4 Q. Where did that list come from? 13:29:57 5 A. I -- I wrote that. I mean, I -- I'm the 13:29:59 6 author of that. 13:30:01 7 Q. Okay. And did -- are there any other 13:30:03 8 factors that are omitted from this list? 13:30:09 9 A. Well, under "complexity of message" I 13:30:12 10 suppose you could also include type of message. 13:30:13 11 Q. Meaning? 13:30:15 12 A. Oh, the -- some -- some messages are maybe 13:30:18 13 a little more salacious than others. 13:30:26 14 Q. Okay. Any other factors? 13:30:31 15 A. No. That come to mind, no. 13:30:35 16 Q. And what about whether a sign -- whether 13:30:37 17 something is predictable or unpredictable? Would 13:30:39 18 that generally contribute to safety? 13:30:43 19 MR. MOBLEY: Objection. Vague and 13:30:45 20 ambiguous. 13:30:45 21 THE WITNESS: Well, you know, yes, and I -- 13:30:47 22 and I'm thinking specifically of, say, a changeable 13:30:51 23 message sign, and let's say, it's -- it's flashing 13:30:55 24 ball scores, just as an example, baseball scores or 13:30:59 25 something like that. I think that is unpredictable</p>	<p>13:32:25 1 business to passers-by? 13:32:26 2 MR. MOBLEY: Objection. Incomplete 13:32:29 3 hypothetical. And vague and ambiguous. 13:32:34 4 THE WITNESS: I -- I would -- I -- I think 13:32:35 5 it depends on a lot of other factors. I really do. 13:32:35 6 BY MS. BRILL: 13:32:39 7 Q. Are small-scale signs often used on 13:32:41 8 businesses to identify the business to passers-by? 13:32:44 9 A. Well, if you're thinking of a sign 13:32:46 10 literally on the business, certainly, yeah. 13:32:48 11 Q. And do you have an opinion about whether 13:32:51 12 drivers in Los Angeles expect that businesses will 13:32:53 13 generally have relatively small-scale signs located 13:32:56 14 on them that say what the business is? 13:32:58 15 MR. MOBLEY: Objection. Vague and 13:33:00 16 ambiguous as to "relatively small-scale." 13:33:04 17 THE WITNESS: Yes. And there's -- you 13:33:05 18 know, there's the -- maybe current sign ordinances 13:33:08 19 would allow -- would allow, say, relatively small 13:33:10 20 sign, but historically, you know, backing up 20 or 13:33:13 21 30 years, there are some businesses that have some 13:33:16 22 huge signs out in front. 13:33:19 23 I -- I don't -- I don't think you can say 13:33:22 24 that a small business is going to have a small-scale 13:33:25 25 sign. I don't think that -- that applies. It may</p>

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<p>13:33:28 1 today, but if you were to drive down the street, I 13:33:31 2 think you're going to see some big signs. If you 13:33:34 3 think of Hollywood Boulevard or some of those kind 13:33:37 4 of places, there's big signs.</p> <p>13:33:38 5 Q. And if you see -- my question was 13:33:42 6 whether -- when -- if a driver in L.A. sees a 13:33:45 7 small-scale sign on a business, directly on the 13:33:48 8 business, does that driver typically think that the 13:33:51 9 sign is going to be associated with or say something 13:33:54 10 about that business?</p> <p>13:33:56 11 MR. MOBLEY: Objection. Calls for 13:33:59 12 speculation.</p> <p>13:33:59 13 THE WITNESS: If -- yeah, if it's clearly 13:34:02 14 a -- an advertiser, a name on a building or 13:34:05 15 something, that -- then they expect that. But there 13:34:07 16 are signs which, of course, are on a building that 13:34:10 17 have nothing to do with the business in that 13:34:12 18 building.</p> <p>13:34:12 19 BY MS. BRILL:</p> <p>13:34:13 20 Q. And drivers know to look for signs if 13:34:15 21 they're trying to locate a business, signs on the 13:34:18 22 business itself?</p> <p>13:34:18 23 A. Yes. That's true.</p> <p>13:34:21 24 Q. Okay. And they can be confused if they 13:34:23 25 expect to see a sign that's identifying a business,</p>	<p>13:35:16 1 on that business?</p> <p>13:35:17 2 MR. MOBLEY: Again, objection. Calls for 13:35:19 3 speculation.</p> <p>13:35:19 4 THE WITNESS: The -- the signs that I'm 13:35:24 5 thinking of, the large -- well, even small signs -- 13:35:27 6 well, generally small signs that are not related to 13:35:29 7 the business aren't on the building. But if they 13:35:33 8 were, I think that it's pretty clear they're not -- 13:35:36 9 they're -- what they're advertising, advertising -- 13:35:40 10 if they're advertising cigarettes, for instance, 13:35:42 11 it's clear they're not made in that building. I 13:35:45 12 think those are self-apparent, generally, I would 13:35:47 13 think.</p> <p>13:35:52 14 Q. In your experience with traffic safety, do 13:35:54 15 drivers typically slow down when they're trying to 13:35:57 16 locate a business on the side of the road as they 13:36:00 17 try to find where the business is?</p> <p>13:36:01 18 MR. MOBLEY: Objection. Incomplete 13:36:03 19 hypothetical.</p> <p>13:36:03 20 THE WITNESS: 1 -- some drivers do.</p> <p>13:36:10 21 Probably most people have been there before, know 13:36:12 22 where it is. So to say generally they slow down, I 13:36:16 23 don't think it's probably accurate.</p> <p>13:36:16 24 BY MS. BRILL:</p> <p>13:36:18 25 Q. And if a driver is trying to find a</p>
<p>13:34:26 1 but that's actually identifying something else?</p> <p>13:34:31 2 MR. MOBLEY: Objection. Calls for 13:34:35 3 speculation.</p> <p>13:34:35 4 THE WITNESS: The -- well, they can be 13:34:35 5 confused. Anybody can be confused on any issue, but 13:34:38 6 I think the -- the -- the bigger signs I've seen 13:34:41 7 that don't apply to that particular business, I 13:34:43 8 think are pretty clear they're advertising something 13:34:45 9 else.</p> <p>13:34:45 10 BY MS. BRILL:</p> <p>13:34:46 11 Q. I'm talking about small signs, small signs 13:34:48 12 directly on a business.</p> <p>13:34:51 13 MR. MOBLEY: And what's the question?</p> <p>13:34:51 14 BY MS. BRILL:</p> <p>13:34:52 15 Q. So a small sign directly on a business, 13:34:54 16 could that be confusing to a passerby trying to 13:34:58 17 locate a business -- a particular business?</p> <p>13:35:00 18 MR. MOBLEY: And again, objection. Calls 13:35:02 19 for speculation. And incomplete hypothetical.</p> <p>13:35:05 20 THE WITNESS: I -- I just have to say it 13:35:06 21 depends. You know, I -- there's no clear definitive 13:35:10 22 answer.</p> <p>13:35:10 23 BY MS. BRILL:</p> <p>13:35:11 24 Q. And it might take them longer to find the 13:35:14 25 business if there's a sign related to something else</p>	<p>13:36:19 1 location where he or she has never been, do they 13:36:22 2 often slow down a bit as they're looking for a sign 13:36:24 3 on the -- on the business to locate that -- to 13:36:27 4 locate that place?</p> <p>13:36:29 5 MR. MOBLEY: Objection. Calls for 13:36:30 6 speculation. And incomplete hypothetical.</p> <p>13:36:32 7 THE WITNESS: Sometimes they would, yes.</p> <p>13:36:34 8 BY MS. BRILL:</p> <p>13:36:35 9 Q. And if they see a small-scale sign on the 13:36:38 10 business that would typically be associated with a 13:36:41 11 business location sign, might that cause them to 13:36:44 12 slow down further?</p> <p>13:36:45 13 MR. MOBLEY: Same objections and also vague 13:36:47 14 and ambiguous.</p> <p>13:36:47 15 THE WITNESS: I'm not sure about the 13:36:49 16 further. Sometimes they slow down to find a 13:36:53 17 business. I think I'd stop at that point.</p> <p>13:36:56 18 BY MS. BRILL:</p> <p>13:36:56 19 Q. And if the business has a sign unrelated to 13:36:59 20 the activity of the business, but that was the same 13:37:01 21 size as a typical on-site sign, could that be 13:37:05 22 confusing?</p> <p>13:37:06 23 MR. MOBLEY: Objection. Speculation and 13:37:08 24 incomplete hypothetical.</p> <p>13:37:09 25 THE WITNESS: It could be. I think</p>

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<p>13:37:14 1 generally there's -- it's not. 13:37:14 2 BY MS. BRILL: 13:37:16 3 Q. And that could have an impact on traffic, 13:37:16 4 correct? 13:37:19 5 MR. MOBLEY: Same objections. 13:37:19 6 THE WITNESS: It could. But it's not a 13:37:23 7 foregone conclusion. 13:37:23 8 BY MS. BRILL: 13:37:25 9 Q. Is there any data on that? 13:37:26 10 A. No. Just you asked my opinion. 13:37:29 11 Q. And your -- and what's your opinion based 13:37:34 12 on? 13:37:36 13 A. Based on my being in this business for, you 13:37:39 14 know, 40 years and, you know, observing a lot of 13:37:44 15 people, a lot of drivers doing a lot of things. So 13:37:47 16 that's -- it's based on -- it's called engineering 13:37:51 17 experience, professional experience. 13:37:53 18 Q. But a typical billboard that's a larger 13:38:03 19 scale sign, drivers typically would know that that 13:38:05 20 doesn't identify -- necessarily identify the 13:38:09 21 business where that sign is, correct? 13:38:11 22 MR. MOBLEY: Same objections. 13:38:14 23 THE WITNESS: The -- yeah, generally 13:38:16 24 they're -- well, they're going to look at the sign 13:38:18 25 and read it, quote, read it, glance at it and, you </p>	<p>13:39:46 1 the driver's eye? 13:39:47 2 A. I -- it's -- it's not a question of 13:39:49 3 collecting data. It's a question of -- of making 13:39:52 4 some assumptions, you know, 15-degree cone, and 13:39:56 5 doing a mathematical calculation that -- that -- 13:39:59 6 that would show the size on the retina. 13:40:14 7 MS. BRILL: Okay. Let's take a look at one 13:40:18 8 example. Mark that as Exhibit 15, please. 13:40:22 9 (The document referred to was 10 marked for identification by the 11 C.S.R. as Exhibit 15 and attached 12 to this deposition.) 13 THE REPORTER: You want the sticker down 14 here? 13:40:45 15 MR. MOBLEY: That's fine. 13:40:45 16 MS. BRILL: Exhibit 15 is a photograph of a 13:40:47 17 street scene. 13:40:48 18 Q. Is that Sunset Boulevard? 13:40:49 19 A. Yes, I believe it is. 13:40:55 20 Q. Yeah. And this is from the CD that -- that 13:40:58 21 you produced? 13:40:58 22 A. Yes, I believe it is one of the ones. I 13:41:00 23 can double-check that. Yes. 13:41:03 24 Q. So you took this picture back in 2004? 13:41:09 25 A. I believe so. </p>
<p>13:38:23 1 know, make an evaluation, is that talking about what 13:38:25 2 this business is on this particular site or is it 13:38:28 3 just a regular sign advertising something not to do 13:38:30 4 with that building? I think they'll make that 13:38:32 5 decision pretty quickly. 13:38:32 6 BY MS. BRILL: 13:38:41 7 Q. One of the factors you mentioned was the 13:38:42 8 relative size in the driver's eye, correct? 13:38:44 9 A. Yes. 13:38:46 10 Q. Let's say for -- for a -- if a -- what's -- 13:38:52 11 do you know what the size is of a typical bus 13:38:54 12 shelter sign? 13:38:55 13 A. Well, I believe they're -- let's just say 13:39:04 14 historically I have known. At the moment I may not 13:39:07 15 know. 13:39:08 16 They vary some. I'm not sure. I think 67 13:39:15 17 by 45 is close, but I think I've also seen them down 13:39:19 18 around 3 feet wide. 13:39:20 19 Q. 67 by 45, that's inches? 13:39:22 20 A. Yes. Yeah. Yes, inches. 13:39:26 21 Q. And have you done any -- have you -- have 13:39:30 22 you collected any data on what the -- the distance 13:39:36 23 that would be comparable for a larger sign or how a 13:39:40 24 larger sign -- how much farther away a larger sign 13:39:43 25 would be to be comparable in terms of the impact on </p>	<p>13:41:09 1 Q. And so there's no question there that -- 13:41:09 2 you see there's a Summit media billboard there to 13:41:12 3 the right? 13:41:12 4 A. Okay. 13:41:14 5 Q. Do you see that? 13:41:14 6 A. Yes. 13:41:15 7 Q. And there's no question that that sign has 13:41:17 8 a bigger impact on the driver's retina than the bus 13:41:21 9 shelter ad below, correct? 13:41:24 10 A. From this exact position, that's correct. 13:41:27 11 Q. And then if you went farther back, that 13:41:29 12 would still be correct, right? 13:41:31 13 A. It would be correct for a while, but once 13:41:32 14 you get back to the cone, the 15-degree cone, it -- 13:41:36 15 not necessarily correct. It's not necessarily 13:41:38 16 correct. 13:41:38 17 Q. Would you have to move forwards or 13:41:40 18 backwards here to get to the -- to get to that cone? 13:41:43 19 A. Well, in the case of the -- the small -- 13:41:46 20 the bus stop shelter sign, I suspect you would move 13:41:49 21 forwards. And just -- just sort of estimating 13:41:53 22 rough -- a crude estimate, maybe halfway on that 13:41:56 23 driveway there would probably be around 15 degrees 13:41:58 24 on the bus stop sign. 13:42:01 25 And on the -- the Summit Media sign you </p>

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13:42:04 1 would have to move backwards, you know, a distance 13:42:09 2 I'm not sure how far. But -- 13:42:10 3 Q. You're saying -- you're saying the Summit 13:42:12 4 Media sign here is not within the 15-degree cone? 13:42:15 5 A. No, I don't believe so. 13:42:16 6 Q. And how do you know that? You didn't make 13:42:18 7 any measurements of that at the time, did you? 13:42:20 8 A. No. No, you would have to calculate it. 13:42:23 9 Q. Okay. And you have not done that, correct? 13:42:24 10 A. That's correct. 13:42:25 11 Q. And sitting here today, you can't tell 13:42:27 12 that, can you? 13:42:28 13 A. That's correct. 13:42:32 14 Q. And if you moved backwards from the place 13:42:38 15 where this is taken, the -- the bus shelter sign 13:42:40 16 would still be within the 15-degree cone, correct? 13:42:43 17 A. Within it. Now, back to definitions, I -- 13:42:46 18 I've said assuming it's at the 15-degree cone mark. 13:42:50 19 That's where I've -- I've chosen to compare the 13:42:53 20 sides -- size. 13:42:55 21 So you would put the bus stop shelter sign 13:42:58 22 at the -- at the boundary, the 15-degree cone, and 13:43:01 23 see how big that is in the retina, calculate it out, 13:43:05 24 and then you'd move backwards and determine 13:43:11 25 Summit -- the Summit Media sign where -- how far	13:44:17 1 A. The -- do I have a reason to believe it 13:44:22 2 would? My point -- okay. I'll avoid the question 13:44:28 3 and just say my point was is how big is the -- is 13:44:30 4 the image in the retina of, let's say, two different 13:44:34 5 sign locations. One larger, but further away and 13:44:38 6 one smaller, but up closer to the curb. That was my 13:44:41 7 purpose. It was not to say, well, one is -- is -- 13:44:45 8 is dangerous, a dangerous condition, and the other 13:44:47 9 is not. 13:44:48 10 I -- I've pretty well stated that I don't 13:44:51 11 believe either sign is -- is dangerous, a dangerous 13:44:56 12 condition. I believe both of them are safe. 13:44:57 13 Q. Okay. And so let's say we were 100 yards 13:45:01 14 further back than the picture here is taken. 13:45:05 15 A. Okay. 13:45:06 16 Q. And both signs are within the 15-degree 13:45:08 17 cone, correct? 13:45:08 18 A. Yes. 13:45:10 19 Q. The Summit Media sign will be much larger 13:45:13 20 in the retina than this bus shelter sign, correct? 13:45:17 21 A. That's correct. 13:45:17 22 Q. Okay. And that will be true, at least 13:45:20 23 until one of those signs falls out of your 15-degree 13:45:24 24 cone, correct? 13:45:27 25 A. That -- well, I -- why don't you say that
13:43:14 1 back that would be in -- in -- and also how much -- 13:43:18 2 how big it would appear in the retina. You know, 13:43:21 3 the size image it would be on the retina. That's 13:43:24 4 how you'd do it. 13:43:25 5 Q. So that edge of the cone, though, signs are 13:43:28 6 visible within the cone for periods not only when 13:43:32 7 they're just at the edge of that 15-degree cone, 13:43:32 8 correct? 13:43:35 9 A. That's absolutely correct. The -- but like 13:43:37 10 I said, you have to make a definition somewhere. 13:43:39 11 Q. And why did you pick that one? 13:43:41 12 A. Well, I picked 15 degrees, as I said 13:43:44 13 before, because that's -- I'll call it custom and 13:43:46 14 practice of traffic engineering, that's the 15 13:43:49 15 degrees. And -- and if you don't -- well, if you 13:43:53 16 don't pick some criteria, you know, you're just -- 13:43:57 17 you're really not -- you got to have a criteria, you 13:44:01 18 got to have a yardstick. That's the yardstick I 13:44:04 19 used. 13:44:04 20 Q. So you -- but is there any -- is there any 13:44:06 21 study that says that that particular yardstick 13:44:08 22 correlates to traffic safety? 13:44:11 23 A. No. 13:44:11 24 Q. And did you have any reason for believing 13:44:16 25 that it would?	13:45:29 1 again, please. Repeat it. 13:45:30 2 Q. That will be true, at least until one of 13:45:33 3 the signs falls out of the 15-degree cone, correct? 13:45:38 4 A. The fact that one would look bigger than 13:45:40 5 the other? 13:45:40 6 Q. Yes. 13:45:43 7 A. Yes. As long as the -- as -- well, the 13:45:45 8 last one to fall out of the 15-degree cone is going 13:45:48 9 to be the bus stop shelter sign, at least in this 13:45:50 10 case. 13:45:51 11 So I suppose when one of them falls out, 13:45:54 12 then the other one -- the bigger one falls out, 13:45:59 13 then, of course, the smaller one starts looking 13:46:01 14 bigger and eventually it looks as big as the big 13:46:07 15 one. 13:46:07 16 So I think that's responsive. I don't 13:46:07 17 know. 13:46:10 18 Q. So for a split second when the -- when the 13:46:11 19 larger sign is fallen out of the cone, the remaining 13:46:14 20 sign is bigger? 13:46:16 21 A. Oh, it grows. It would grow in size until 13:46:18 22 it falls out of the cone. 13:46:31 23 MS. BRILL: Can you mark this one as 13:46:32 24 Exhibit 16, please? 13:46:32 25 (The document referred to was

13:46:32 1	marked for identification by the C.S.R. as Exhibit 16 and attached to this deposition.)	13:49:08 1	farther away from the street than the bus shelter sign, the person might have to look at a more extreme angle in order to read the message on that sign?
13:46:32 2		13:49:10 2	MR. MOBLEY: Objection. Vague as to the term "extreme."
13:46:48 3		13:49:12 3	THE WITNESS: They may, and this is -- this particular sign here is a good example. There lots
13:46:48 4	BY MS. BRILL:	13:49:14 4	of little typing at the bottom, lots of words at the bottom. I don't know what they say, but I -- you know, maybe a disclaimer or something.
13:46:48 5	Q. Is this also one -- is Exhibit 16 also one of the pictures that you took back in 2004?	13:49:16 5	But those words, you know, I'm not sure you could hardly read them anywhere, unless you're sitting right beside the sign. You know, for instance, if you're parked there by the newspaper rack, maybe you could read the one -- read the one on the bus shelter, but here's an example where it's pretty hard to classify that this sign's readable from a certain location.
13:46:50 6	A. I believe it is, yes.	13:49:18 6	The number of -- the size of letters just -- you know, looking at it and estimating, there's like four or five sizes of letters on that particular sign.
13:46:52 7	Q. And this is a sign -- the picture shows a Third Street intersection with a -- an L.A. Rocking Chair store and a bus shelter and then another sign -- few other signs along with that?	13:49:20 7	The "Black Book" is fairly large and -- but then the other letters, you can't read them in this
13:47:03 10	A. Yes.	13:49:22 8	
13:47:10 11	Q. Okay. Do you know -- did you study whether any drivers would mistake -- see that sign on the yellow wall, there's a yellow brick wall there with a sign on it that says -- what does it say, "Black" -- "Black Book"?	13:49:24 9	
13:47:11 12	A. I see the sign. I guess that's what it says, yes.	13:49:26 10	
13:47:12 13	Q. Did you ever survey any drivers to see whether they would be confused about whether that sign was something associated with the business located there?	13:49:28 11	
13:47:14 14	A. Well, no, I didn't. But I think this one's pretty self-evident that the rocking chair store and	13:49:30 12	
13:47:34 16		13:49:32 13	
13:47:36 17		13:49:35 14	
13:47:37 18		13:49:38 15	
13:47:42 19		13:49:40 16	
13:47:42 20		13:49:41 17	
13:47:45 21		13:49:44 18	
13:47:47 22		13:49:47 19	
13:47:54 23		13:49:49 20	
13:47:54 24		13:49:52 21	
13:47:58 25		13:49:54 22	
		13:49:56 23	
		13:49:57 24	
		13:50:00 25	
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13:48:03 1	Black Book, or whatever that sign says, is two different things. I mean, that's pretty obvious.	13:50:02 1	picture anyway. At least I can't. And some of those words are very small.
13:48:05 2		13:50:08 2	
13:48:09 3	And you might -- you might even add the same sign is also on the bus shelter there. The exact same sign, it appears.	13:50:10 3	BY MS. BRILL:
13:48:11 4		13:50:10 4	Q. And the people sitting at the bus shelter, though, could read them on the bus shelter?
13:48:14 5		13:50:12 5	
13:48:15 6	Q. So it becomes obvious when you read the sign, but not just by looking at the structure, correct?	13:50:13 6	A. They could, yes.
13:48:17 7		13:50:14 7	Q. And there's no place comparable to sit in the shade next to the sign that's on the business, correct?
13:48:17 8		13:50:17 8	
13:48:21 9	A. Yes. That's correct, yes.	13:50:17 9	MR. MOBLEY: I'm sorry, what was the question? Can I have that read back.
13:48:23 10	Q. And here the -- there's some signs for a Pets Only and a cleaners and a printer, correct?	13:50:17 10	(The reporter read the record as follows:
13:48:26 11		13:50:27 11	"QUESTION: And there's no place comparable to sit in the shade next to the sign that's on the business, correct?"
13:48:26 12	A. Yes.	13:50:27 12	MR. MOBLEY: I'll object that it's vague and ambiguous.
13:48:34 13	Q. And when you're -- at the angle that this picture was taken, do you know whether the -- the sign against the yellow wall was within the 15 foot	13:50:27 13	THE WITNESS: In this case, there is no place -- well, arguably there's no easy place to sit and read -- and see the sign in the shade. I suppose the shade of that sign, the "310 South"
13:48:37 14	[sic] cone?	13:50:29 18	
13:48:39 15		13:50:30 19	
13:48:42 16		13:50:30 20	
13:48:42 17	A. I -- I don't.	13:50:32 21	
13:48:44 18	Q. And in order to see that sign, a driver might have to look to the right away from traffic?	13:50:37 22	
13:48:46 19		13:50:39 23	
13:48:50 20	MR. MOBLEY: Objection. Incomplete hypothetical.	13:50:41 24	
13:48:56 21	THE WITNESS: The -- well, seeing any sign, the driver might look away from traffic, yes.	13:50:45 25	
13:48:56 22			
13:48:59 23			
13:49:05 24	BY MS. BRILL:		
13:49:06 25	Q. And the angle -- because that sign is		
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13:50:47 1 shade on the bus bench, that's for sure.	13:52:48 1 Q. Exhibit 17 is also a -- an image taken from
13:50:50 2 BY MS. BRILL:	13:52:51 2 your -- the CD that Mr. Mobley produced, and it has
13:50:51 3 Q. And if that bus shelter wasn't there, the	13:52:56 3 a street sign on the side that says "Redondo
13:50:59 4 only way to identify that as a bus stop would be	13:53:00 4 Boulevard."
13:51:02 5 that little pole sign with the letter M on top.	13:53:00 5 Do you recognize this as one of the
13:51:02 6 Is that right?	13:53:02 6 pictures that you took?
13:51:08 7 A. No, I would say that's not right. The bus	13:53:03 7 A. Yes. I believe I took that picture, yes.
13:51:10 8 stop shelter could be there without the sign.	13:53:10 8 Q. And again, it would be difficult to
13:51:17 9 There's no reason that the bus stop shelter has to	13:53:11 9 see the -- there's a bus stop -- let me go back a
13:51:19 10 have that sign.	13:53:14 10 second. Sorry. Strike that.
13:51:20 11 Q. The question was, if the bus shelter wasn't	13:53:15 11 There's a bus stop there that has the word
13:51:22 12 there, the only way to identify that as a bus stop	13:53:17 12 "Olympic" on it.
13:51:25 13 would be that little pole sign with the letter M on	13:53:19 13 Do you see that toward the right-hand side?
13:51:27 14 top, correct?	13:53:21 14 A. I do see that --
13:51:28 15 A. My answer is no, that's not correct.	13:53:22 15 Q. And that bus stop would be pretty hard to
13:51:30 16 Q. Why not?	13:53:24 16 see without that bus shelter there, correct?
13:51:31 17 A. Because if the bus shelter itself was there	13:53:28 17 A. Yeah, probably would be, yes.
13:51:33 18 without the sign, for example, then you'd have the	13:53:29 18 Q. And that woman standing there wouldn't have
13:51:36 19 bus shelter plus the sign on the pole to identify it	13:53:31 19 any shade to stand in, correct?
13:51:39 20 as a bus stop.	13:53:33 20 A. That's -- that's correct. She chose to use
13:51:40 21 Q. What's the difference between the answer	13:53:36 21 the shade, yes.
13:51:42 22 you gave that caused you not to say "yes" to my --	13:53:37 22 Q. Was this a hot day when you were taking
13:51:45 23 my question?	13:53:39 23 these pictures?
13:51:46 24 A. I'm not sure.	13:53:40 24 A. I think so. Seemed like -- I don't
13:51:46 25 Q. Okay.	13:53:42 25 remember. But I think so. It was a bright day. I

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13:51:48 1 A. I'm not sure.	13:53:44 1 know that.
13:51:49 2 Q. The question -- the question --	13:53:56 2 MS. BRILL: Can you mark this one as
13:51:50 3 A. Lot of questions.	13:53:57 3 Exhibit 18.
13:51:51 4 Q. The question -- I'm not trying to be	13:53:57 4 (The document referred to was
13:51:53 5 tricky.	13:53:57 5 marked for identification by the
13:51:55 6 The question was, if the bus shelter wasn't	13:53:57 6 C.S.R. as Exhibit 18 and attached
13:51:57 7 there, the only way to identify that as a bus stop	13:53:57 7 to this deposition.)
13:52:02 8 would be the little pole sign with the M on top?	13:53:57 8 BY MS. BRILL:
13:52:05 9 A. That's true in the absence of a bus, yes.	13:54:10 9 Q. Before we go --
13:52:07 10 In the absence of knowledge about the area or	13:54:10 10 THE REPORTER: Thank you.
13:52:10 11 something.	13:54:10 11 BY MS. BRILL:
13:52:10 12 Q. And that's harder to see than a bus stop	13:54:11 12 Q. Before we go on to -- to 18, we mentioned
13:52:14 13 with a bus shelter, correct?	13:54:12 13 that it was a hot day. So that person there waiting
13:52:14 14 A. Yes.	13:54:15 14 for the bus is able to stay cooler on a side -- on
13:52:17 15 Q. And that white sign there on the bus	13:54:17 15 account of the bus shelter?
13:52:20 16 shelter makes the shelter, as a whole, more	13:54:20 16 A. Well, it looks like she's not standing in
13:52:23 17 prominent, correct?	13:54:22 17 the bus -- the shade, but --
13:52:24 18 A. Probably does, yes.	13:54:23 18 Q. Well, she's half in, half out, right?
13:52:31 19 MS. BRILL: Would you mark this as	13:54:25 19 A. Half in, half out. Yeah, presumably shade
13:52:33 20 Exhibit -- Exhibit 17, please.	13:54:29 20 is going to keep you cooler. That's pretty obvious.
13:52:33 21 (The document referred to was	13:54:31 21 It would help.
13:52:33 22 marked for identification by the	13:54:32 22 Q. Turning to Exhibit 18. This is another --
13:52:33 23 C.S.R. as Exhibit 17 and attached	13:54:37 23 which the court reporter has just marked.
13:52:47 24 to this deposition.)	13:54:37 24 A. Yeah, I see it. Okay.
13:52:47 25 BY MS. BRILL:	13:54:53 25 Q. Is this another photograph that you had

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13:54:54 1	taken back in 2004?	13:57:42 1	Pardon me.
13:54:55 2	A. Yes.	13:57:49 2	And -- and the changeable message sign,
13:54:56 3	Q. And we -- it's somewhere along Sixth	13:57:51 3	sometimes it's just, let's say, advertising a movie
13:55:03 4	Street, correct?	13:57:54 4	and just shows a couple, three scenes out of a
13:55:05 5	A. Looks like it's probably not on Sixth	13:57:56 5	movie.
13:55:08 6	Street. It's on a cross street.	13:57:57 6	Q. You're talking about animated signs with
13:55:10 7	Q. Do you know what the street is?	13:57:59 7	motions?
13:55:12 8	A. I think I could check and tell you.	13:58:01 9	A. Okay. If you want to call it that. I'm
13:55:15 9	At the moment I'm not able to tell you	13:58:03 10	just saying anything that changes.
13:55:18 10	exactly where that picture is.	13:58:05 11	Q. Well, I'm asking you what your -- I'm --
13:55:19 11	Q. We'll refer to it as the Sixth Street sign,	13:58:08 12	A. Yeah. I'm saying anything that changes.
13:56:00 12	okay? Or the Sixth Street photograph?	13:58:11 13	If it's not static, if the image changes, whether
13:56:01 13	A. Yes.	13:58:17 14	it's words or whether it's pictures -- so I'm
13:56:02 14	Q. And this one has a bus shelter and a kiosk	13:58:19 15	starting to lose track of the question. What is the
13:56:06 15	right next to it.	13:58:19 16	question?
13:56:06 16	Is that right?	13:58:25 17	Q. The question is whether you had done any
13:56:06 17	A. Yes.	13:58:27 18	studies about changeable messages versus messages
13:56:13 18	Q. And again, it would be harder to see this	13:58:28 19	that do not change?
13:56:15 19	bus stop if it weren't for the shelter and the kiosk	13:58:32 20	A. I have observed -- not as a study, but as a
13:56:18 20	right there, correct?	13:58:35 21	traffic engineer being concerned with these kind of
13:56:24 21	MR. MOBLEY: I'm sorry, can I have the	13:58:39 22	issues, I've observed that and have -- have noticed
13:56:24 22	question read back, again.	13:58:46 23	that some changeable message signs do cause a -- a
13:56:24 23	(The reporter read the record	13:58:47 24	distraction. I'm not sure I'll call it a
13:56:24 24	as follows:	13:58:51 25	significant distraction, but pretty significant
13:56:14 25	"QUESTION: It would be	126	distraction because of the message they're showing
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13:56:14 1	harder to see this bus stop if it	13:58:53 1	And the ones that come to mind is the one I
13:56:16 2	weren't for the shelter and the	13:58:55 2	mentioned earlier, ball scores. I mean, a lot of
13:56:17 3	kiosk right there, correct?"	13:58:58 3	people, a lot of guys, you know, they want to see
13:56:31 4	THE WITNESS: Yes is the answer.	13:59:00 4	what the score was. And when you had a changeable
13:56:31 5	BY MS. BRILL:	13:59:12 5	message sign kind of scrolling across, you know,
13:56:52 6	Q. And then on that list we -- you also --	13:59:12 6	showing the -- you know, the Dodgers' score and then
13:56:57 7	that list we were referring to back in your	13:59:12 7	somebody else's score, well, you know, you're
13:57:00 8	declaration, we also -- you also mentioned	13:59:12 8	tempted, or some people, guys -- guys in this case
13:57:04 9	changeable messages.	13:59:15 9	are tempted to read that.
13:57:04 10	A. Yes.	13:59:16 10	And likewise, if you got some -- something
13:57:08 11	Q. Do you recall that?	13:59:18 11	going with, you know, movies playing or something
13:57:08 12	A. Yes.	13:59:21 12	like that, people will -- you know, they're tempted
13:57:09 13	Q. Have you done any studies yourself about	13:59:24 13	to -- to look at those things and -- and look at it
13:57:10 14	changeable messages versus messages that do not	13:59:28 14	to try to catch the last part of that message or the
13:57:13 15	change?	13:59:30 15	next message as it comes along.
13:57:17 16	A. The -- I have observed the -- the	13:59:32 16	So I find those -- those signs are much
13:57:20 17	changeable message signs in various situations.	13:59:35 17	more distracting than a static sign, static message
13:57:26 18	Q. What changeable message signs are you	13:59:39 18	sign.
13:57:28 19	talking about?	13:59:40 19	MS. BRILL: Okay. So I'm going to move to
13:57:28 20	A. Well, changeable message signs, I've seen	13:59:41 20	strike the portion of that answer after "not as a
13:57:31 21	them on the back of buses, I've seen them on top of	13:59:45 21	study." So the question was -- as nonresponsive.
13:57:34 22	taxis. Not necessarily in L.A., but I've seen them	13:59:49 22	Q. The question was whether you have done any
13:57:36 23	on buses. I've seen them on taxis. Of course, I've	13:59:51 23	studies about changeable messages versus messages
13:57:39 24	seen them, you know, on -- on signs themselves that	13:59:55 24	that do not change.
13:57:42 25	are not on bus stops or on taxis, on buses or taxis.	13:59:56 25	Is the answer to that question "no"?
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<p>13:59:58 1 A. No. The answer's yes. And I would -- I 14:00:00 2 would debate the word "study." I don't have to be 14:00:03 3 paid, I don't have to make notes, wrte a report to 14:00:07 4 conduct a study. There's Informal studies. 14:00:10 5 I would say I've done an informal study on 14:00:12 6 my own trying to -- you know, using engineering 14:00:15 7 judgment, tryng to fine-tune my engineering 14:00:18 8 judgement to see if -- if I thlnk those signs are 14:00:21 9 dlstracting. 14:00:22 10 And I find they're much more distracting 14:00:24 11 than a static message, because a static message, you 14:00:29 12 glance at lt and you know what it says. And If 14:00:31 13 you're further interested ln the message, you glance 14:00:33 14 at lt again once-in a-while when you sort of have a 14:00:36 15 cbance. You're not -- your eyes aren't needed to 14:00:38 16 drive down the road. So you glance at lt and you 14:00:40 17 also know if you -- If lt's your home-to-work route, 14:00:44 18 you know you'll see it tomorrow if you don't see lt 14:00:46 19 today. 14:00:46 20 But ln the case of changeable message 14:00:49 21 slgns, it's changlng. The content ls changlng maybe 14:00:52 22 even hourly. So it's more distracting. 14:01:03 23 Q. And you're using the word "distracting" 14:01:05 24 there in the same sense that you used it in your 14:01:06 25 2007 report and your 2004 report?</p>	<p>14:02:23 1 Q. And you haven't reviewed any literature on 14:02:25 2 that topic, correct? 14:02:26 3 A. No, I haven't. 14:02:32 4 Q. And you haven't written on that topic, 14:02:32 5 correct? 14:02:34 6 A. Not -- no, not -- no, I have not. I have 14:02:36 7 not prepared a report. 14:02:37 8 Q. And did -- in making these observations, 14:02:40 9 were they at a single location or various locations 14:02:43 10 wherever you happened to be at the time? 14:02:44 11 A. Various locations, varlous points in time. 14:02:47 12 Every time I see a changeable message sign I -- you 14:02:50 13 know, I -- I look. I observe. I say how 14:02:53 14 distracting -- pardon-me -- how distractlng is that 14:02:56 15 sign? And just do a -- you know, a common sense 14:02:59 16 evaluation. 14:03:01 17 Q. But you haven't taken any measures of that? 14:03:03 18 A. How would you measure that? I just asked 14:03:06 19 you that question. What are you going to do? I 14:03:09 20 mean, if people -- lt's distracting to a typical 14:03:12 21 person. 14:03:12 22 I'm pretty typical. And If I want to see 14:03:15 23 what the ball score is, I'm going to try to figure 14:03:18 24 It out as I'm driving. Who else won the other game. 14:03:21 25 Kind of looking, trying to drlse and look, because</p>
<p>14:01:09 1 A. Yes. 14:01:10 2 Q. Okay. And have you -- have you made any 14:01:17 3 notes regarding changeable messages? 14:01:21 4 A. No. I've -- I've just stated that I've -- 14:01:24 5 whenever I see a changeable message sign, I look at 14:01:27 6 lt and observe from a -- you know, an interest, a 14:01:31 7 kind of knowledge point of view, I observe what it 14:01:34 8 is. And how -- you know, I -- sometimes I'll look 14:01:36 9 and see if other people are looking at it. 14:01:38 10 And in the case of the ballpark score I 14:01:41 11 mentioned, I mean, I saw people just rubbernecking 14:01:44 12 trying to figure out wbat that -- that message was. 14:01:46 13 Q. Have you taken -- have you attempted to do 14:01:48 14 a scientific analysis on changeable messages? 14:01:52 15 A. I want to say yes. I would classify what I 14:01:57 16 did as sclentific to some degree. 14:01:57 17 Q. And what was it -- 14:01:59 18 A. It was statistically -- statistic and 14:02:03 19 all -- you know, statistically significant, 14:02:05 20 confidence and intervals and all that? No. But I 14:02:07 21 think to say that people look at changeable message 14:02:09 22 signs longer and harder and more intently than they 14:02:12 23 do a static sign, I thlnk ls -- I -- I -- I'm 14:02:15 24 convinced that's the case and would be happy to do a 14:02:19 25 study to prove it.</p>	<p>14:03:23 1 you -- those scores are coming up every -- you know 14:03:26 2 like -- as I recall the one I saw that I'm thinking 14:03:31 3 of was runnng -- it was kind of running across 14:03:33 4 the -- the screen and -- and so maybe the score was 14:03:37 5 up -- up on the screen only probably less than two 14:03:42 6 seconds, you know, a second and a half. 14:03:44 7 And so if you didn't look in that second 14:03:46 8 and a half and recognize the cbaracters, you know, 14:03:49 9 the -- the letters being formed by a -- a 14:03:56 10 light matrlx, which are harder to read than just 14:03:56 11 regular text. So I -- you know, so I've looked at 14:03:59 12 them and -- and very specifically tried to determine 14:04:02 13 how -- how distracting ls that. 14:04:07 14 And my conclusion was it's pretty 14:04:09 15 distracting if you want to see what's on that -- 14:04:11 16 what the score ls or whatever else. 14:04:12 17 And also, I didn't say it, a lot of them 14:04:15 18 have like latest breaking news. And -- and today, 14:04:20 19 you know, with all of the -- you know, the election 14:04:23 20 and all of the other things that are -- election and 14:04:25 21 the prlce of oil at, you know, 4,50 a gallon and 14:04:29 22 crude oil at 135 or whatever lt is today and, you 14:04:33 23 know, Iran and Iraq, and Obama ls over in Iran I 14:04:38 24 think today -- I mean, I'm sorry, in Iraq I tbnk 14:04:40 25 today, you know, all of these factors, you know.</p>

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14:04:43 1	And they're scrolling the -- the latest	14:07:33 1	if it's a near-sided bus stop -- not all bus stops
14:04:46 2	greatest news, you know, "Obama says," or whatever	14:07:36 2	are far-sided, Some of them are near-sided -- they
14:04:49 3	And you're kind of perhaps interested in what's	14:07:36 3	start to impact the ability to see the cross street.
14:04:51 4	going on. Or you know, oh -- oh is up. How much	14:07:41 4	"Near-side" meaning it's before you get to
14:04:55 5	is it up?	14:07:42 5	the intersection; "Far-side" meaning it's after you
14:04:56 6	So I think they're -- they're distracting	14:07:44 6	pass through the intersection, that's where the bus
14:04:58 7	because people are going to look at them. I would	14:07:46 7	stop is.
14:05:00 8	look at them. I'm not a big sports fan, but I -- I	14:07:48 8	I think in any -- any case where the bus
14:05:03 9	am a news junky, so I probably would look at the	14:07:50 9	stop shelter is near-side, then it, to some degree,
14:05:06 10	news one ahead of the -- the sports one.	14:07:54 10	blocks your view of cross traffic.
14:05:08 11	Q. Okay. So you're talking primarily about	14:07:56 11	Also, if the -- if there's a -- it's like a
14:05:11 12	the scrolling types of signs there, right?	14:08:01 12	driveway. So there's a driveway, you have a bus --
14:05:13 13	A. Yes.	14:08:04 13	a kiosk or a bus stop shelter sign, and there's a
14:05:14 14	MR. MOBLEY: Objection. Vague and	14:08:08 14	nearby driveway, it's possible that it -- it makes
14:05:18 15	ambiguous.	14:08:12 15	it more difficult for a driver coming out of a
14:05:18 16	THE WITNESS: Well, I'm classifying it as	14:08:14 16	driveway to -- to see to the right or to the left or
14:05:22 17	if it's a changeable message, it has the potential	14:08:18 17	both.
14:05:24 18	for the person, the driver, let's talk about, to be	14:08:18 18	Q. And did you make any determination about
14:05:28 19	interested in whatever that message might be.	14:08:20 19	whether any particular location was dangerous as a
14:05:32 20	And in some cases, it's just a movie or	14:08:23 20	result of that placement?
14:05:34 21	something, which I personally wouldn't be looking at	14:08:25 21	A. No. I -- I don't believe they're
14:05:37 22	too much, but some people do. That's what they want	14:08:28 22	dangerous. It just makes it more difficult to see.
14:05:38 23	to know about is the latest movie.	14:08:30 23	Q. And you didn't -- you didn't report any
14:05:38 24	BY MS. BRILL:	14:08:31 24	concerns about that to the City, correct?
14:05:41 25	Q. But when you're just talking about news	14:08:34 25	A. I believe that's correct.

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14:05:43 1	scores and ball scores, you're talking there about	14:08:35 1	Q. And you didn't report anything about that
14:05:46 2	primarily the scrolling messages, correct?	14:08:37 2	to CBS Decaux, correct?
14:05:49 3	A. Yes. Or, you know -- and let's talk about	14:08:39 3	A. No, I didn't report anything to CBS.
14:05:52 4	say a -- if you're driving by Anaheim Stadium or	14:08:42 4	Q. You didn't report any concerns about those
14:05:55 5	Dodger Stadium or somewhere where there's a message	14:08:44 5	signs to anyone, right?
14:05:58 6	sign up there that says, you know, Angels play	14:08:45 6	A. I've not communicated with CBS.
14:06:02 7	whoever tonight, you know, 7:00 o'clock, seats	14:08:47 7	Q. You didn't report about any of those
14:06:04 8	available, those are the kind of things people would	14:08:49 8	locations to anybody in terms of any concerns about
14:06:07 9	look at. And those messages do change. So it's not	14:08:51 9	safety, correct?
14:06:10 10	just a scrolling. In that case, it's a large sign.	14:08:53 10	A. That's correct.
14:06:41 11	Q. I want to turn to conclusion 4 of your 2007	14:09:19 11	Q. Now, just getting back to the question of
14:06:43 12	report.	14:09:20 12	changeable messages for a second, you -- you say in
14:06:59 13	At the bottom of that paragraph you say --	14:09:23 13	your report, at the top of page 10, talking about
14:07:02 14	I believe you're talking about bus shelter signs and	14:09:30 14	changeable signs, that they are perhaps a
14:07:04 15	you say:	14:09:33 15	significant distraction.
14:07:04 16	"Some of these signs have	14:09:35 16	Do you see that? That's at the very top of
14:07:05 17	actually impacted motorists' line	14:09:36 17	page 10.
14:07:07 18	of site vision at intersections."	14:09:36 18	A. Yes. I'm -- I'm -- I'm saying they're --
14:07:09 19	Do you see that?	14:09:57 19	they're, you know, are slice and -- we've run out of
14:07:09 20	A. Yes.	14:10:00 20	words, significant, insignificant, maybe
14:07:09 21	Q. What signs are you talking about there?	14:10:04 21	significant, but the large flashing signs that I'm
14:07:16 22	A. The -- I believe I was talking about -- I	14:10:06 22	referring to here, they're pretty -- they -- they
14:07:19 23	think there's a picture here somewhere. There's	14:10:12 23	get your attention, and some people more than
14:07:26 24	a -- well, it happens in more than one place.	14:10:16 24	others.
14:07:29 25	Any time you have a bus stop, particularly	14:10:16 25	And I would say maybe they are a

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<p>14:10:20 1 distraction, significant distraction.</p> <p>14:10:20 2 Q. But you haven't reached a conclusion about</p> <p>14:10:20 3 that? You're saying perhaps, maybe. You have not</p> <p>14:10:23 4 reached a conclusion about that, correct?</p> <p>14:10:25 5 A. Well, I -- I think we're -- we're now</p> <p>14:10:28 6 mincing, slicing and dicing the words.</p> <p>14:10:31 7 I'm saying I think at least in some cases</p> <p>14:10:33 8 they probably are a significant distraction. Not to</p> <p>14:10:37 9 every driver, obviously. Most drivers could care</p> <p>14:10:40 10 less what that sign says.</p> <p>14:10:42 11 But some drivers are looking at it and it's</p> <p>14:10:45 12 pretty eye-catching. Those things at night,</p> <p>14:10:48 13 particularly, they're very, very bright. They're --</p> <p>14:10:51 14 they're very bright. And very -- people look at</p> <p>14:10:56 15 them.</p> <p>14:10:58 16 Q. People look at them.</p> <p>14:10:59 17 So -- but have you studied any correlation</p> <p>14:11:03 18 between changeable messages and traffic accidents?</p> <p>14:11:05 19 A. No.</p> <p>14:11:07 20 Q. Do you know of any correlation between</p> <p>14:11:08 21 changeable messages and traffic accidents?</p> <p>14:11:10 22 A. Not that's been proven.</p> <p>14:11:25 23 Q. You used the word "flash" in your last</p> <p>14:11:27 24 answer.</p> <p>14:11:27 25 What do you mean when you used the word</p>	<p>14:13:12 1 You say in your conclusion 2 at page 9 of</p> <p>14:13:15 2 your 2007 report:</p> <p>14:13:17 3 "Everything at which a driver</p> <p>14:13:18 4 may look away from the roadway is a</p> <p>14:13:22 5 distraction."</p> <p>14:13:22 6 Right?</p> <p>14:13:25 7 A. That's what I said. And I hopefully</p> <p>14:13:27 8 defined it adequately on page 2 of that same report</p> <p>14:13:31 9 where I -- I basically said-if you're not looking at</p> <p>14:13:34 10 the road, then you're looking at something. It is a</p> <p>14:13:36 11 distraction one way or another. Distraction comes</p> <p>14:13:39 12 in, you know, all shades of -- of gray, from very</p> <p>14:13:45 13 little -- from no distraction, where you just glance</p> <p>14:13:46 14 away, to, you know, very intense distraction where</p> <p>14:13:50 15 you're almost forced to look at it.</p> <p>14:13:53 16 Q. So in Exhibit 18, the building that's</p> <p>14:13:57 17 there, that's a distraction because you're looking</p> <p>14:14:00 18 away from the roadway?</p> <p>14:14:02 19 A. Yes. If you can come up with a better word</p> <p>14:14:06 20 you want to substitute for "distraction," I'll</p> <p>14:14:10 21 concur, just not -- but it's -- it's a word that I</p> <p>14:14:12 22 picked that I thought captured the essence of what</p> <p>14:14:16 23 we were dealing with.</p> <p>14:14:17 24 Q. And -- and in Exhibit 15, those palm trees</p> <p>14:14:19 25 are a distraction?</p>
<p>14:11:29 1 "flash"?</p> <p>14:11:29 2 A. Well, I -- I guess -- what I would mean is</p> <p>14:11:37 3 it changes from one -- one image to another. I</p> <p>14:11:40 4 suppose "flash" is not maybe a perfect word, but it</p> <p>14:11:44 5 flashes out a message. I mean, it's not a flash</p> <p>14:11:48 6 meaning one tenth of a second, but it goes from one</p> <p>14:11:50 7 message to another and it sort of flashes a message.</p> <p>14:11:54 8 I think it's a proper word. But I would maybe</p> <p>14:11:58 9 retract it if you wanted to object to the word</p> <p>14:12:01 10 "flash."</p> <p>14:12:01 11 Q. Well, are you aware there's a state law</p> <p>14:12:03 12 definition of the word "flash"?</p> <p>14:12:05 13 A. Well, no, I'm not aware of it necessarily</p> <p>14:12:09 14 in this sense.</p> <p>14:12:10 15 Q. And you weren't using the word "flash"</p> <p>14:12:12 16 under -- as a -- in that meaning, correct?</p> <p>14:12:15 17 A. Yes, I would say I was not using that word</p> <p>14:12:17 18 in that meaning.</p> <p>14:12:19 19 Q. You just meant anything that changes?</p> <p>14:12:21 20 A. Yeah.</p> <p>14:12:59 21 Q. So I want to return to your definition of</p> <p>14:13:01 22 "distraction", where paragraph 2 you say everything</p> <p>14:13:06 23 which a driver may -- may look away from the</p> <p>14:13:10 24 roadway -- everything -- excuse me. Let me start</p> <p>14:13:12 25 again.</p>	<p>14:14:20 1 A. Yes. Anything that keeps you from looking</p> <p>14:14:23 2 exactly at the road is a distraction. And I think</p> <p>14:14:26 3 the better driver -- the best driver, better</p> <p>14:14:29 4 drivers, you know, their eyes -- you should scan.</p> <p>14:14:32 5 You know, your eyes should be scanning right to</p> <p>14:14:34 6 left, and to some degree up and down, and you should</p> <p>14:14:37 7 be monitoring. You're monitoring the situation. Is</p> <p>14:14:40 8 there a car coming that may not stop? Or in the</p> <p>14:14:45 9 case of a signal, you know, you actually have to</p> <p>14:14:47 10 look up a little bit from the road to see a traffic</p> <p>14:14:47 11 signal.</p> <p>14:14:51 12 So I think a good driver is scanning. And</p> <p>14:14:53 13 to start saying, well, if you look at the signal</p> <p>14:14:55 14 it's not a distraction, but if he looks at the bus</p> <p>14:14:57 15 stop, it is. He's looking elsewhere besides the</p> <p>14:15:02 16 center of the road routinely. Eyes should be going</p> <p>14:15:06 17 everywhere when you're driving.</p> <p>14:15:07 18 Q. So looking at a stop sign, in your</p> <p>14:15:09 19 definition, that would be a -- looking at a</p> <p>14:15:11 20 distraction?</p> <p>14:15:11 21 A. I would say no. I mean, there's --</p> <p>14:15:13 22 there's -- maybe it should say if -- if you're</p> <p>14:15:19 23 looking at only things that are totally involved in</p> <p>14:15:22 24 the process of driving a car, which would include</p> <p>14:15:26 25 traffic signals and stop signs and curve signs and</p>

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14:15:30 1 those things, that I don't think I'd call it a 14:15:31 2 distraction. That's just monitoring your driving. 14:15:36 3 Monitoring the road and driving accordingly. 14:15:40 4 But anything else that's non-essential for 14:15:42 5 driving, looking at the price of gas on the gas 14:15:44 6 station or whatever, I -- I just said, okay, that's 14:15:47 7 a distraction. One way or another it's taking your 14:15:50 8 eye off of the driving task and putting it -- you 14:15:54 9 know, doing something else. And we all do it every 14:15:57 10 day, obviously. Probably every second almost that 14:15:59 11 you drive, every five seconds I'm sure we've got a 14:16:03 12 distraction in our eyes.	14:17:36 1 stop shelter. I don't know what the ratio is, but I 14:17:40 2 strongly suspect that most bus stops don't have bus 14:17:43 3 stop shelters. And so you'd better be ready to stop 14:17:46 4 or react if the bus stops, you know, whether there's 14:17:49 5 a bus stop shelter or not. 14:17:50 6 So I don't think of the bus stop as being a 14:17:53 7 major visual cue used by a driver to monitor if the 14:17:57 8 bus is going to stop in front of him. I just don't 14:18:00 9 think that's true.
14:16:05 13 Q. And observing a bus shelter is part of the 14:16:09 14 driving task, correct?	14:18:27 10 Q. So, in any event, referring back to what 14:18:29 11 you said earlier, you regard scanning your 14:18:31 12 surroundings in general as part of the driving task, 14:18:31 13 correct?
14:16:12 15 A. Yes, absolutely.	14:18:35 14 Q. Okay. --
14:16:12 16 A. Important part.	14:18:37 16 Q. And making predictions about what's going 14:16:16 17 to happen up the road is part of the driving task, 14:16:19 18 correct?
14:16:23 19 A. I'd -- I'd buy that, yes.	14:18:40 17 Q. Have you ever ridden a bus in Southern 14:16:28 20 California?
14:16:30 21 A. Yes.	14:18:41 18 Q. Have you ever waited for a bus at a stop 14:16:31 22 with a shelter?
14:16:32 23 A. Yes.	14:18:45 20
14:16:34 24 A. Yes.	14:18:53 21
14:16:37 25 A. Yes.	14:18:55 22
	14:18:55 23
	14:18:56 24
	14:18:58 25

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14:16:40 1 be ready to stop because the bus may stop. If 14:16:43 2 there's no bus in sight, clearly the bus stop 14:16:46 3 doesn't mean too much.	14:18:58 1 A. Yes.
14:16:46 4 Q. Are you saying bus -- bus behavior and bus 14:16:50 5 stops are unrelated to the process of driving?	14:19:00 2 Q. Have you waited for a bus at a stop without 14:19:01 3 a shelter?
14:16:53 6 MR. MOBLEY: Objection. That's compound.	14:19:02 4 A. Yes.
14:16:57 7 THE WITNESS: I'm not sure I -- no, I would 14:16:59 8 not say -- if I said that, I didn't mean to imply 14:17:02 9 that.	14:19:03 5 Q. And bus shelters are a convenience for bus 14:19:06 6 drivers [sic], correct?
14:17:02 10 BY MS. BRILL:	14:19:07 7 MR. MOBLEY: Objection. Calls for 14:19:10 8 speculation.
14:17:04 11 Q. Is bus behavior unrelated to the process of 14:17:07 12 driving?	14:19:10 9 THE WITNESS: I think you said "bus 14:19:12 10 drivers." You meant bus riders?
14:17:07 13 A. Observing what a bus is doing? Yes, that's 14:17:10 14 part of driving.	14:19:12 11 BY MS. BRILL:
14:17:10 15 Q. Okay. And is observing a bus stop where a 14:17:13 16 bus may pull over part of driving?	14:19:15 12 Q. Bus riders, excuse me. Thank you.
14:17:15 17 MR. MOBLEY: Objection. That's an 14:17:16 18 incomplete hypothetical.	14:19:18 13 A. Are bus shelters a convenience for bus 14:19:20 14 riders? Yes.
14:17:17 19 THE WITNESS: I would say that's a very 14:17:20 20 secondary task compared to monitoring the bus. If I 14:17:23 21 was driving, I would be worrying about the bus and 14:17:26 22 not worrying about the bus stop shelter. And if I 14:17:29 23 see a bus at a bus stop shelter, maybe I say, oh, 14:17:32 24 maybe he's going to stop.	14:19:21 15 Q. And they provide shelter from rain and wind 14:19:23 16 and sun?
14:17:33 25 But, you know, not every bus stop has a bus	14:19:24 17 A. Yes.
	14:19:24 18 Q. And they provide a place to sit while 14:19:26 19 waiting for a bus, correct?
	14:19:28 20 A. Sometimes, yes.
	14:19:29 21 Q. And they promote bus ridership, correct?
	14:19:32 22 A. Probably, yes.
	14:19:32 23 Q. And they help reduce traffic congestion, 14:19:32 24 correct?
	14:19:36 25 A. Yeah, that's -- yes, that's correct.

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14:19:37 1	Q. And energy consumption?	14:21:41 1	A. Yes. It's the art of applying scientific
14:19:39 2	A. Well, that's debatable, but in general,	14:21:44 2	principles to solving, I'll call it an everyday
14:19:44 3	yes. If the bus is pretty full, you reduce energy.	14:21:59 3	problem, everyday ordinary problem. So it's the art
14:19:46 4	If you're on empty buses, it's questionable whether	14:21:59 4	of applying a scientific principle.
14:19:49 5	you're reducing energy consumption or not.	14:21:59 5	Q. Is a basic principle of engineering that,
14:19:49 6	Q. And air --	14:21:59 6	in order to draw conclusions, you have to have
14:19:52 7	A. A lot of buses are running empty, too.	14:21:59 7	adequate data?
14:19:55 8	Q. And bus -- bus shelters help reduce air	14:21:59 8	A. No. That's -- that's false. I mean, if
14:19:59 9	pollutants?	14:22:03 9	there's printed text, you know, if there's printed
14:20:01 10	MR. MOBLEY: Objection. Calls for	14:22:05 10	material that you know has been relied upon by a lot
14:20:01 11	speculation. Beyond the scope of his expertise.	14:22:10 11	of people for, I think that's adequate. I don't
14:20:03 12	THE WITNESS: I -- I -- I would not	14:22:13 12	have to have the data or collect the data. So I
14:20:07 13	conclude that that's necessarily true. Buses make a	14:22:16 13	wouldn't have to do that.
14:20:11 14	lot more particulates; diesel buses, than cars do.	14:22:17 14	And back to the 15-degree cone, I'm not
14:20:16 15	And so you're not necessarily saving air pollution	14:22:20 15	sure there ever was any data collected. I think
14:20:20 16	if the bus isn't pretty full.	14:22:22 16	it's just custom and practice.
14:20:20 17	BY MS. BRILL:	14:22:38 17	Q. In -- in traffic engineering, you used the
14:20:22 18	Q. And bus shelters are usually privately	14:22:40 18	concept of the 15-degree cone looking at something
14:20:25 19	constructed and financed, correct?	14:22:43 19	at precisely the point when it would disappear from
14:20:28 20	MR. MOBLEY: Objection. Calls for	14:22:46 20	the cone, correct?
14:20:34 21	speculation.	14:22:46 21	A. Yes.
14:20:34 22	THE WITNESS: I believe that is correct.	14:22:47 22	Q. Is that -- is that practice used in traffic
14:20:34 23	BY MS. BRILL:	14:22:49 23	engineering?
14:20:35 24	Q. And publicly-owned bus companies seldom	14:22:51 24	A. I would say yes. Now, this is -- this --
14:20:39 25	take enough money into the fare box to cover costs,	14:22:54 25	you know, dealing with media signs, whatever you

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14:20:39 1	correct?	14:22:58 1	want to call these, is -- is not something that's
14:20:42 2	MR. MOBLEY: Objection. Calls for	14:23:03 2	routinely dealt with and analyzed in the traffic
14:20:43 3	speculation. Beyond his field of expertise.	14:23:06 3	engineering circles. So that part of the -- that
14:20:44 4	THE WITNESS: That's -- that is correct.	14:23:09 4	part is -- is -- It would -- we're breaking new
14:20:46 5	Very few bus companies make money.	14:23:14 5	territory here. But the fact that a 15-degree cone
14:20:46 6	BY MS. BRILL:	14:23:17 6	is used in the concept of signs has definitely been
14:20:50 7	Q. And that's certainly true in Los Angeles,	14:23:22 7	around for many decades.
14:20:51 8	correct?	14:23:23 8	Q. I'm talking about your choice of using this
14:20:52 9	MR. MOBLEY: Same objections.	14:23:26 9	edge of the cone in the point at which something
14:20:52 10	THE WITNESS: Maybe Santa Monica bus may	14:23:29 10	disappears from the cone.
14:20:55 11	make money. They used to make money. Actually,	14:23:29 11	How is that used in ordinary traffic
14:20:57 12	Santa Monica bus lines. MTA does not.	14:23:32 12	engineering?
14:20:57 13	BY MS. BRILL:	14:23:33 13	A. Well, like I said before, that's -- that's
14:21:02 14	Q. And are you aware that the L.A. MTA runs	14:23:36 14	the point they assume the driver's eye sees, and
14:21:05 15	buses with compressed natural gas?	14:23:40 15	they want the sign legible in the 15-degree cone.
14:21:08 16	MR. MOBLEY: Objection. Calls for	14:23:44 16	Q. But not just -- I'm asking -- your -- your
14:21:10 17	speculation. Lack of foundation. Beyond his field	14:23:46 17	study looked at the point at which -- relative sizes
14:21:12 18	of expertise.	14:23:50 18	at the point where something disappears from the
14:21:13 19	THE WITNESS: Well, they -- they do now.	14:23:53 19	edge of the cone, correct?
14:21:16 20	They -- there's -- there's a transition, they're	14:23:53 20	A. Yes.
14:21:20 21	transitioning over. I don't know if there's any	14:23:54 21	Q. So where is that used in traffic
14:21:22 22	diesels left or not, but I suspect there are.	14:23:56 22	engineering, other than in your report?
14:21:22 23	BY MS. BRILL:	14:23:59 23	A. I -- I would say this is a relatively new
14:21:37 24	Q. You referred to the field of engineering as	14:24:04 24	or unique approach. This is -- this is breaking
14:21:38 25	a science, correct?	14:24:07 25	some new ground. I'm not aware of anybody else

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<p>14:24:10 1 that's done these kind of studies. I pretty well 14:24:13 2 stated my assumptions. I made these assumptions and 14:24:16 3 this is -- here is my basis, here is my assumptions, 14:24:19 4 here's my hypothetical, here's my -- my results and 14:24:22 5 answer. I think I've been pretty clear on that.</p> <p>14:24:25 6 MS. BRILL: Let's take a little break and 14:24:27 7 maybe we'll be done soon.</p> <p>14:24:29 8 THE VIDEOGRAPHER: Let's go off the record. 14:24:30 9 The time is 2:24.</p> <p>14:29:42 10 (Brief recess.)</p> <p>14:29:42 11 THE VIDEOGRAPHER: Back on the record. The 14:29:45 12 time is 2:29.</p> <p>14:29:45 13 BY MS. BRILL:</p> <p>14:29:49 14 Q. Mr. Kunzman, we'll try to finish up 14:29:53 15 quickly.</p> <p>14:29:53 16 I'd like you to look at Exhibit 18, which 14:29:55 17 is one of those photographs we were looking at 14:29:57 18 before.</p> <p>14:29:58 19 Do you see that?</p> <p>14:29:58 20 A. Yes.</p> <p>14:29:59 21 Q. Okay. In your -- in the way you used the 14:30:01 22 15-foot cone, it's correct, is it not, that the bus 14:30:05 23 shelter sign would fall out of the cone of the 14:30:11 24 15 -- I'm sorry, did I say "15-foot"? The 14:30:14 25 15-degree cone.</p>	<p>14:31:24 1 other sign would be in the cone and clearly would be 14:31:26 2 the biggest sign. 14:31:28 3 Q. And how -- when you're looking, using this 14:31:31 4 15-degree cone principle in traffic safety, the 14:31:36 5 point is to determine -- to make the fonts or the 14:31:41 6 letters big enough so that they're visible at some 14:31:44 7 point within the cone, not at the edge, correct? 14:31:46 8 A. Well, at the edge. That's where 14:31:48 9 theoretically it would -- which -- it should be 14:31:51 10 equal. In other words, you should just be able to 14:31:53 11 read the sign when you're at the 15-degree cone. 14:31:55 12 If you're driving down the freeway, maybe 14:31:58 13 the easier example, but if you're driving down the 14:32:01 14 freeway, you see a big green sign, it's going to 14:32:03 15 tell you all the future exits. 14:32:05 16 Well, clearly when you first see that sign, 14:32:07 17 normally you're not going to be able to read it. 14:32:09 18 You know the sign's there, but you can't read it. 14:32:11 19 The goal is to make it so that in that 14:32:14 20 case, when you're in the fast lane, or a car pool 14:32:18 21 lane, and you get to about the 15-degree cone, that 14:32:20 22 sign should be readable by a typical driver. 14:32:25 23 And then you get into what's typical, and I 14:32:28 24 don't know if it's 20/20 or 20/40, but the point is, 14:32:32 25 is there's some point there when the -- the person</p>
<p style="text-align: right;">150</p> <p>14:30:14 1 The bus shelter sign would fall out of the 14:30:16 2 15 degrees before that little square or rectangle 14:30:21 3 that shows where the bus -- the bus routes, the 14:30:24 4 numbers of the bus routes?</p> <p>14:30:25 5 Is that correct?</p> <p>14:30:25 6 A. That is correct, yes.</p> <p>14:30:26 7 Q. So at that point, the bus route number sign 14:30:28 8 would be larger than the -- the bus shelter ad in 14:30:33 9 the cone?</p> <p>14:30:34 10 A. Well, if you discounted the -- the ad, the 14:30:39 11 bus shelter ad, if you discounted that, then clearly 14:30:42 12 the biggest sign would be the -- the bus schedule 14:30:45 13 sign.</p> <p>14:30:45 14 Q. Okay. And that's how you did your analysis 14:30:48 15 for --</p> <p>14:30:50 16 A. Well, I basically said when you were at 14:30:53 17 15-degrees cone, which sign would appear to be 14:30:55 18 bigger when both of them were at the 15-degree 14:30:58 19 boundary? That's how I did it.</p> <p>14:31:00 20 Q. And so -- so there's a point at which, even 14:31:05 21 for this small pole sign with the bus routes, that 14:31:12 22 would be bigger than the bus shelter sign on your -- 14:31:17 23 the way you did the analysis?</p> <p>14:31:19 24 A. Yes. It's definitions, but yes, there's a 14:31:23 25 point where the one sign wouldn't count and the</p>	<p>14:32:34 1 should be able to read the sign and know what it 14:32:37 2 says without going like that as they drive by it. 14:32:40 3 They don't have to follow it with their head as they 14:32:43 4 drive by. 14:32:43 5 So that's -- that's how it's used. 14:32:46 6 Q. So it can be anywhere -- it can be -- the 14:32:51 7 point is to make it legible within that cone, not 14:32:54 8 just at the edge of the cone, correct? 14:32:56 9 A. Well, yes, but -- but maybe not quite 14:32:58 10 exactly as you stated. 14:32:59 11 When you get to the point that the sign is 14:33:01 12 about to the 15-degree cone line, the edge of the 14:33:03 13 cone, that's the point in time which it should be 14:33:07 14 legible to a, call it average driver. Before that 14:33:11 15 point when the sign is more in the center, assuming 14:33:13 16 it's a straight road, when the sign is more in the 14:33:15 17 center, you know, is well inside that cone. Not 14:33:19 18 necessarily legible. It's not necessarily -- 14:33:22 19 necessarily legible. 14:33:24 20 But when you get to the point where the 14:33:26 21 sign is about 15-degree cone, you should be able to 14:33:29 22 pretty easily read it, or an average person, typical 14:33:33 23 person. 14:33:33 24 Q. And that, you're talking typically about 14:33:35 25 signs that are placed in the -- placed in the center</p>

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 800-826-0277 818-593-2300 Fax 818-593-2301 www.merrillcorp.com

Brill Declaration Ex. B

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14:33:37 1 of a freeway, for example?
 14:33:42 2 A. Well, my example was like if it's - it's
 14:33:44 3 off to the edge. Let's say it's an off-ramp. Not
 14:33:48 4 too many signs are in the middle of the freeway.
 14:33:50 5 Some are, but - but - and some are overhead signs.
 14:33:52 6 But typically a directional sign saying,
 14:33:56 7 you know, Robertson Avenue is coming up, that kind
 14:33:59 8 of sign is typically on the right-hand side up on a
 14:34:02 9 pole. And the pole hangs cantilevered out to some
 14:34:07 10 degree over the travel lanes, but not - not way
 14:34:08 11 out. Just over a little bit. Typically it's maybe
 14:34:12 12 over the slow lane. That's about it.
 14:34:23 13 MS. BRILL: Okay. Well, do you have
 14:34:24 14 anything else? No? -----
 14:34:26 15 Okay. Well, thank you for -- for coming in
 14:34:29 16 today. And I appreciate your time.
 14:34:32 17 THE VIDEOGRAPHER: Well, this concludes the
 14:34:35 18 deposition of William Kunzman, Volume Number I. The
 14:34:38 19 number of tapes used was two. And the original
 14:34:47 20 videotapes will be retained by Merrill Legal
 14:34:47 21 Solutions at 20750 Ventura Boulevard, Suite 205,
 14:34:50 22 Woodland Hills, California. Going off of the
 14:34:52 23 record. The time is 2:35.
 24 (Deposition concluded at 2:35 p.m.)
 25 -00o-

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1 STATE OF CALIFORNIA)
 2) ss.
 3 COUNTY OF LOS ANGELES)
 4 I, Shanda Levine, Certified Shorthand
 5 Reporter, Certificate No. 10094, for the State of
 6 California, hereby certify:
 7 I am the deposition officer that
 8 stenographically recorded the testimony in the
 9 foregoing deposition;
 10 Prior to being examined the witness was by
 11 me first duly sworn;
 12 The foregoing transcript is a true record
 13 of the testimony given.
 14 Before completion of the deposition, review
 15 of the transcript [X] was [] was not requested. If
 16 requested, any changes made by the deponent (and
 17 provided to the reporter) during the period allowed
 18 are appended hereto.
 19
 20 Dated _____
 21
 22
 23 Shanda Levine
 24 CSR 10094
 25

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1 DECLARATION

2

3

4

5

6 I hereby declare I am the deponent in the
 7 within matter; that I have read the foregoing
 8 deposition and know the contents thereof, and I
 9 declare that the same is true of my knowledge except
 10 as to the matters which are therein stated upon my
 11 information or belief, and as to those matters, I
 12 believe it to be true.

13 I declare under the penalties of perjury of
 14 the State of California that the foregoing is true
 15 and correct.

16 Executed on the _____ day of
 17 _____ 2008, at

18 _____
 19 California.

20

21

22

23

24

25

WITNESS

155

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) ss.
3

4 I, Shanda Levine, Certified Shorthand Reporter,
5 Certificate No. 10094, for the State of California,
6 hereby certify:

7 I am the deposition officer that
8 stenographically recorded the testimony in the foregoing
9 deposition;

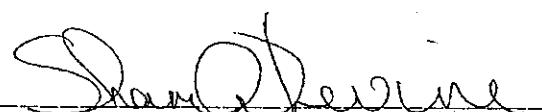
10 Prior to being examined the witness was by me
11 first duly sworn;

12 The foregoing transcript is a true record of
13 the testimony given.

14 Before completion of the deposition, review of
15 the transcript [X] was [] was not requested. If
16 requested, any changes made by the deponent (and
17 provided to the reporter) during the period allowed are
18 appended hereto.

19

20 Dated July 23, 2008.

21
22 
23 Shanda Levine
CSR 10094

24

25

Exhibit 14

1 PAUL E. FISHER SBN 125309
2 The Law Office of Paul E. Fisher
3 537 Newport Center Dr., #289
Newport Beach CA 92660
4 Telephone: (949) 675-5619
Facsimile: (949) 675-5641

5 ATTORNEYS FOR PLAINTIFF
METRO LIGHTS OUTDOOR MEDIA, INC.

6 UNITED STATES DISTRICT COURT

7 FOR THE CENTRAL DISTRICT OF CALIFORNIA

8 METRO LIGHTS, L.L.C., a New York corporation,

} Case No. CV 04-1037 GAF (Ex)

} The Hon. Gary A. Feess

9 Plaintiff,
10 vs.

11 CITY OF LOS ANGELES, a California municipal corporation; and DOE 1
12 through DOE 10, inclusive,

13 Defendants.

} DECLARATION OF WILLIAM KUNZMAN SUBMITTED IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT

Date: September 26, 2005
Time: 9:30 a.m.
Courtroom: 740

16 Plaintiffs hereby submit the declaration of William Kunzman in
17 support of its Motion for Partial Summary Judgment. This declaration was
18 previously filed in support of Plaintiff's Motion for Preliminary Injunction.

19 Date: August 25, 2005

LAW OFFICE OF PAUL E. FISHER

20
21 By:

22 PAUL E. FISHER

23 Attorneys for Plaintiff
24 METRO LIGHTS, L.L.C.

25 EXHIBIT 14

26
27 Kunzman
7-29-08

-1- DECLARATION OF WILLIAM KUNZMAN
IN SUPPORT OF MOTION FOR SUMMARY
Brill DEGMEN Ex. B
-55-

1 PAUL E. FISHER SBN 125309
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 4 Newport Beach CA 92660
 Telephone: (949) 675-5619
 Facsimile: (949) 675-5641

5 ATTORNEYS FOR PLAINTIFF
 6 METRO LIGHTS OUTDOOR MEDIA, INC.

7
 8 UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA

9
 10 METRO LIGHTS, L.L.C., a New York corporation,

11 Plaintiff,
 12 vs.

13 CITY OF LOS ANGELES, a California municipal corporation; and DOE 1 through DOE 10, inclusive,

14 Defendants.

15 Case No. CV 04-1037 GAF (Ex)

16 DECLARATION OF WILLIAM KUNZMAN IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

17 The Hon. Gary A. Feess

Date: August 30, 2004
 Time: 10:00 a.m.
 Dept. 740

18 I, William Kunzman, declare as follows:

19 1. I am over the age of 18 and not a party to the within action. I
 20 have personal knowledge of each of the following facts and if called as a
 21 witness, I could and would testify competently thereto.

22 2. I am a registered professional traffic safety engineer in the State
 23 of California, license no. TE0056. A true and correct copy of my curriculum
 24 vitae is attached hereto as Exhibit "A."

25 3. I have a Bachelor of Science degree in engineering from the
 26 University of California at Los Angeles and a certificate in traffic
 27 engineering from Yale University.

1 4. On or about July 19, 2004, I was retained by Plaintiff, Metro
 2 Lights, L.L.C. ("Metro Lights") to conduct an inspection of signs to
 3 determine whether they may constitute a traffic hazard. On or about July 31,
 4 2004, I conducted an inspection of seven separate locations where Metro
 5 Lights has signs located within the City of Los Angeles. At each location, I
 6 found a sign physically identical, measuring approximately 67" in height and
 7 46" in width, the exact dimensions of bus shelter signs that the City of Los
 8 Angeles currently maintains in numerous locations. Attached hereto as
 9 Exhibit "B" is a table that I prepared comparing the physical aspects of the
 10 signs maintained by Metro Lights with those located at City bus shelters.
 11

12 5. In order to determine the relative effect on traffic safety of the
 13 Metro Lights sign and the adjacent bus shelter sign, I measured the distance
 14 of each sign from the curbside and adjacent lanes of traffic. On average, the
 15 signs operated by Metro Lights, which are referred to in my report as
 16 "outdoor media signs" are more than 3 times further from the curb face than
 17 the bus shelter signs. The outdoor media signs which are the subject of my
 18 study are an average of 19.3 feet away from the curb face, while the average
 19 bus shelter sign was only 5.3 feet from the curb face.

20 6. I determined that all of the bus shelter signs in my sample were
 21 closer to the curb face than all of the outdoor media signs owned by Metro
 22 Lights. All of the bus shelter signs were located on City owned right-of-way
 23 while the outdoor media signs owned by Metro Lights were outside the City
 24 owned right-of-way and located on what was apparently private property.
 25 Accordingly, the outdoor media signs will always be further away from the
 26 curb face than the bus shelter signs for a given right-of-way width.

27 7. Attached hereto as Exhibit "C" is a table in which I describe
 28 figures relevant to determining the degree to which the Metro Lights signs

1 compare as a potential traffic hazard to the bus shelter signs maintained by
 2 the City. As described in Exhibit "C," the bus shelter signs are more visible
 3 to a driver than the outdoor media signs maintained by Metro Lights, based
 4 on the angle off straight ahead that a driver has to look to see the sign. Bus
 5 shelter signs are more visible and logically more distracting for the same
 6 size sign with the same message. Visibility is a function of the angle to the
 7 right of straight ahead that a driver has to look to see a sign.
 8

9 8. For the average bus shelter sign, it is within 15° of a driver's
 10 straight ahead line of sight at 80 or more feet back from the sign. For the
 11 average outdoor media sign, it is within 15° of a driver's straight ahead line
 12 of sight at 140 or more feet back from the sign. Outdoor media signs will
 13 always be further from the curb face and have a larger angle off straight
 14 ahead than a bus shelter sign for a given right-of-way width outside of the
 15 curb face. Therefore, the bus shelter signs in my study were more visible
 16 and more of a potential distraction than any of the outdoor media signs
 17 included in my study.

18 9. In Exhibit "C" (Table 2), I chose 15° as a reasonable angle to
 19 represent the angle that one would expect a driver to notice a sign. Clearly,
 20 a driver is more likely to see a sign if it is less than 15° from his straight
 21 ahead line of sight and less likely to see a sign if it is more than 15° of his
 22 line of sight. Whether 15° or some other angle is used, similar results will
 23 be obtained. Because the bus shelter signs are closer to lanes of traffic, and
 24 the Metro Lights signs are further away from lanes of traffic, the bus shelter
 25 signs will almost invariably be within the driver's sight to a greater degree.

26 10. Attached hereto collectively as Exhibit "D" are a series of
 27 photographs that I took of each of the sites I inspected. Each of these sites
 28 represent a bus shelter sign or outdoor media sign operated by Metro Lights

1 located in the City of Los Angeles. In each instance, I have placed a red dot
2 in the photograph to indicate the location of the sign.

3 11. The photographs depict the following:

4 Photo #1a - This shows a Metro Lights sign located at the
5 corner of Sunset and Hayworth. The Metro Lights sign can be
6 seen on the right hand side of the photograph.

7 Photo #1b - This photo is of the same site as that depicted in
8 photo #1a, but the red dot is now placed by the bus shelter sign,
9 which can be seen to be far closer to the lanes of traffic and
10 more visible to motorists.

11 Photo #2a - This photo depicts a Metro Lights sign located at
12 the intersection of Olympic and La Brea.

13 Photo #2b - This photo indicates a bus shelter sign in the same
14 location as the sign depicted in photo #2a.

15 Photo #3a - This photo shows a Metro Lights sign located at La
16 Brea and Third.

17 Photo #3b - This photo depicts a similar bus shelter sign at the
18 same location. Photo #3a and photo #3b are highly instructive
19 in determining the relative traffic safety of each of the two
20 types of signs. Depicted in photos #3a and #3b are signs of the
21 identical dimensions and depicting the exact same advertising
22 copy, an advertisement for the film, "The Black Book." The
23 most significant difference between the two types of signs is
24 that the City's sign depicted in photograph #3b is only 3.8'
25 from the curb face, while Metro Lights' sign is 16.7' away from
26 the curb face. A driver looking straight ahead would have the
27 City sign within his line of sight using the 15° angle described
28

1 in Exhibit "C" for a much longer time than the corresponding
2 Metro Lights sign. Accordingly, the photos #3a and #3b easily
3 demonstrate the greater visibility of the City's bus shelter signs
4 over the Metro Lights signs.

5 Photo #4a - This photo depicts a Metro Lights sign at the
6 intersection of Highland and Sunset.

7 Photo #4b - This photo shows a bus shelter sign at almost the
8 same location.

9 Photo #5a - This photo indicates another Metro Lights sign
10 located near Highland and Sunset, visible to westbound traffic.

11 Photo #5b - The closest bus shelter sign to the Metro Lights
12 sign depicted in Exhibit 5a can be seen in Exhibit 4b.

13 Photo #6a - This photo shows a Metro Lights sign located near
14 the corner of Rossmore and Melrose.

15 Photo #6b - This photo indicates a bus shelter sign situated in
16 close proximity to Photo #6a.

17 Photo #7a - This photo depicts another Metro Lights sign
18 located at the intersection of Rossmore and Melrose.

19 Photo #7b - The closest bus shelter sign closest to the Metro
20 Lights sign depicted in Photo 7a can be seen in Photo 6b.

21 12. In all of the photographs described above, the bus shelter sign is
22 consistently closer to lanes of traffic than the outdoor media signs and
23 commensurately more visible to drivers. The signs located closer to the
24 driver's straight ahead line of sight are visible for a greater length of time
25 than signs located at a greater angle from the driver's straight line of sight.

26 13. Attached hereto as Exhibit "E" are a series of photographs that I
27 took of a bus shelter sign located on the east side of Figueroa between

Wilshire and Sixth. What is significant about this sign, is that it is not in fact connected to the adjacent bus shelter, which is also visible in the photograph. Instead, it is a two-sided freestanding sign located on the sidewalk. Although it is close to a bus shelter, it is not attached and does not constitute a part of the bus shelter.

6 14. Based on my review of all of the available data, as described
7 above, I do not believe that the Metro Lights signs depicted in the attached
8 photographs and described in Exhibits "B," "C," and "D" create any unsafe
9 condition for the traveling public. In fact, based on my review of the signs
10 depicted in the photographs attached to this declaration, signs erected by the
11 City in connection with bus shelters are invariably closer to lanes of traffic
12 and, therefore, more visible and potentially a greater distraction than any of
13 the signs owned and operated by Metro Lights.

I declare under penalty of perjury under the laws of the United States
of America that the foregoing is true and correct.

Executed this 6th day of August, 2004, at Los Angeles, California.

William Kunzman
WILLIAM KUNZMAN